

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 3:06 CR 175

-vs-

O R D E R

JEFFREY CLEMENS,

Defendant.

KATZ, J.

This matter is before the Court on Jeffrey Clemens' ("Defendant") motion for appointment of appellate counsel (Doc. No. 39). Defendant's hearing on a violation of the terms of supervised release and sentencing have already been completed at the trial level by this Court. Defendant retained counsel for this proceeding. Defendant now seeks to appeal this Court's decision of February 9, 2007 (Doc. No. 37) to the U.S. Court of Appeals for the Sixth Circuit. Defendant filed a notice of appeal with this Court on February 15, 2007 (Doc. No. 38). Defendant has filed a motion asking this Court to appoint appellate counsel (Doc. No. 39).

The appointment of appellate counsel in this Circuit is the province of the Sixth Circuit Court of Appeals, not the various district courts within the Circuit. "[P]etitioner's notice of appeal divests [the district court] of jurisdiction to consider his motion for the appointment of appellate counsel." *Cadogan v. Renico*, Case No. 2:04cv71761, 2006 WL 2466242, *3 (E.D. Mich. Aug. 24, 2006) (citing *Glick v. U.S. Civil Service Com'n*, 567 F.Supp. 1483, 1490 (N.D.Ill.1983); *Brinton v. Gaffney*, 560 F.Supp. 28, 29-30 (E.D.Pa.1983)). "Because jurisdiction of this action was transferred from the district court to the Sixth Circuit Court of Appeals upon the filing of the

notice of appeal, petitioner's motion for the appointment of appellate counsel would be more appropriately addressed to the Sixth Circuit.” *Id.* citing *Grizzell v. State of Tennessee*, 601 F.Supp. 230, 232 (M.D. Tenn. 1984).

For the reasons enumerated herein, Defendant’s motion for appointment of appellate counsel is hereby denied (Doc. No. 39).

IT IS SO ORDERED.

s/ David A. Katz
DAVID A. KATZ
U. S. DISTRICT JUDGE